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10/522,179	10/24/2005	Vincent Rene Michel Bedhome	LOM-46	3577

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EXAMINER

WALCZAK, DAVID J

ART UNIT

PAPER NUMBER

3751

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/522,179

**Applicant(s)**

BEDHOME ET AL.

**Examiner**

David J. Walczak

**Art Unit**

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date 1/24/05
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Abstract***

The abstract of the disclosure is objected to because legal phraseology such as "means" (see line 7) should not be present therein. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sachet (claim 14), the tapered lug (claim 15) and the arrangement defined in claim 19 must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The terms "definitive abutments" and "temporary abutments" (claim 18) do not have antecedent basis in the specification. The Applicant should review all of the claims to ensure that the terms used therein have antecedent basis in the specification.

### ***Claim Rejections - 35 USC § 112***

Claims 13, 14, 15, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification has not adequately disclosed the structure and operation of the spongy mass and how it releases liquid, the sachet and how it releases liquid or the arrangements disclosed in claims 19 and 20.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, an antecedent basis for "the front part of the body" has not been defined.

In regard to claim 2, an antecedent basis for "the ink solvent" and "the case of the water-based ink" has not been defined. Further, the phrase "in particular" is indefinite in that the metes and bounds of the claim have not been clearly defined.

In regard to claim 3, an antecedent basis for "the components" and "the residual ink" has not been defined. Further, the phrase "all or any" is indefinite in that the metes and bounds of the claim have not been clearly defined.

In regard to claim 4, an antecedent basis for "the water-based ink type" has not been defined.

In regard to claim 5, an antecedent basis for "the dry-wipe ink type" has not been defined.

In regard to claim 9, an antecedent basis for "the front face" and "the rear face" has not been defined.

In regard to claim 10, an antecedent basis for "the capillarity" of both the main and auxiliary reservoirs has not been defined.

In regard to claim 16, an antecedent basis for "the main part" has not been defined.

In regard to claim 18, an antecedent basis for "the outside periphery" and "the inside periphery" has not been defined.

In regard to claim 20, an antecedent basis for "the portion of the body" has not been defined.

The Applicant should carefully review all of the claims to ensure that an antecedent basis for all of the claimed elements has been properly defined.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Keil (as cited by Applicant).

In regard to claim 1, Keil discloses a writing instrument comprised of a body 2, a main reservoir 4 containing ink and housing in the body, a writing head projecting from the front part of the body, a capillary connector 5 for transferring ink from the main reservoir to the writing head, an auxiliary reservoir 8 containing an ink carrier liquid and an actuator means 9 for releasing liquid from the auxiliary reservoir so the liquid flows into the main reservoir and expels the ink towards the connector (see column 3, lines 45-50).

In regard to claim 2, the carrier liquid is water (see column 3, lines 42-44).

In regard to claim 3, the liquid carrier contains at least one of the components of the ink in the main reservoir (since the liquid carrier in the auxiliary reservoir 8 forms the ink in the main reservoir 4, the liquid carrier includes a component of the ink in reservoir 4) such that the original writing properties of the ink in the main reservoir are preserved.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keil.

In regard to claims 4-7, although the Keil reference does not disclose the particularly disclosed ink and carrier or the specifically claimed volumes, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that the Keil device can be designed to dispense any suitable ink/ink carrier (wherein the ink and ink carrier may be present in any suitable volume), including those claimed, without effecting the overall operation of the device, especially since the Keil reference in no way limits the type of ink/ink carrier that can be dispensed (and further discloses that various types of inks and carriers may be dispensed therefrom, see column 3, lines 41-43) or the amount of ink and ink carrier that is present and the instant application does not impart any criticality on the type of

ink/carrier that may be dispensed from the device or the specific amount of ink and carrier that is present.

***Allowable Subject Matter***

Claims 8-12 and 16-18 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Nakata, Goldman et al. and Kingman et al. references are cited for disclosing other writing instruments having multiple reservoirs therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huson Gregory can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David J. Walczak  
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2/15/08

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